

REMARKS

Claims 28, 29, 34, 38, 39, 43, and 47 are pending in this application. Claims 28 and 38 are amended herein. Upon entry of the amendments herein, claims 28, 29, 34, 38, 39, 43, and 47 remain pending in this application.

A verified translation of the earliest priority document EP 02011967.7 and a 37 CFR 1.132 Declaration are provided herewith.

Claim Rejections Under 35 USC 112

Claims 28, 29, 34, 38, 39, 43, and 47 stand rejected under 35 USC 112 as being allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

On page 4 of the Office action it is stated that "it is unclear what temperature is sufficient to convert such phases as claimed," referring to the phase conversions as claimed in the last Response. As claims 28 and 38 are amended herein, adding the limitation "...heat treating ... at a temperature sufficient ... to prevent the gamma prime phase from reforming" and in view of the attached Declaration of Brij B. Seth Under 37 CFR 1.132 stating that the latter occurs at or above the solution temperature, the alleged indefiniteness is overcome. That is, it is clear that in order to operate the claimed method, it is inherently necessary to heat at or above the solution temperature.

Accordingly, reconsideration and withdrawal of this basis of rejection are respectfully requested.

Claim Rejections Under 35 USC 102

Claims 28, 29, 34, 38, 39, 43, and 47 stand rejected under 35 USC 102(b) as being allegedly unpatentable over WO03/029521 by Czech et al. ("521")

Provided herewith is a certified translation of the originally filed European patent application, EP 02011965.7, which is the earliest application to which the present application claims priority. [NOTE - this application number was incorrectly typed in the Office Communication as EP 02011967.7.] Upon entry of this into the file, it is believed that the cited

'521 reference no longer is prior art so the withdrawal of the present 35 USC 102 rejection is appropriate. Reconsideration and withdrawal of this basis of rejection are respectfully requested.

Claim Rejections Under 35 USC 103

Claims 28, 29, 34, 38, 39, 43, and 47 stand rejected under 35 USC 103(a) as being allegedly unpatentable over US Patent No. 6,217,668 by Czech et al. ("668") in view of US Patent No. 6,042,879 by Draghi et al. and further in view of US Patent No. 3,184,292 by Argyriades et al.

In making these rejections, the Examiner has applied any heat treatment, stating that "any heat treatment will necessarily have the same results absent a factual showing to the contrary." The Declaration of Brij B. Seth under 37 CFR 1.132, provided herewith, provides evidence that the newly added limitation, ". . . heat treating . . . at a temperature sufficient . . . to prevent the gamma prime phase from reforming" occurs at or above the solution temperature. Thus, the present invention as claimed inherently teaches heating at or above the solution temperature.

By contrast, Czech '668 teaches at column 5, lines 58-60 that the aluminization should always occur well below the solution temperature, thereby teaching away from the amended claims and rendering it impossible for Czech '668 inherently to teach the present invention. Based on this alone, withdrawal of this claim rejection basis is appropriate.

Furthermore, Draghi describes a diffusion heat treatment, not a solution heat treatment, and therefore the process of Draghi does not inherently describe the claimed invention.

Reconsideration and withdrawal of this basis of rejection are respectfully requested.

Conclusion

The claim amendments presented herein, the verified translation document, and the 1.132 Declaration, provided with this paper, are believed to place the application into condition for allowance. Reconsideration of the application is respectfully requested.

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The commissioner is hereby authorized to charge any appropriate fees due in connection with this paper, including the fees specified in 37 C.F.R. §§ 1.16 (c), 1.17(a)(1) and 1.20(d), or credit any overpayments to Deposit Account No. 19-2179.

Respectfully submitted,

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